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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARCO TERMINAL SERVICES CORP.,

Defendant.

CIVIL NO. 99-12216

COMPLAINT

The United States of America, by and through the undersigned attorneys, by
authority of the Attorney General of the United States, and acting at the request of

1 the Administrator of the United States Environmental Protection Agency ("EPA"),
2
3 alleges as follows:

4 NATURE OF ACTION

5 1. This is a civil action against Defendant ARCO Terminal Services
6 Corporation ("ATSC") for civil penalties and injunctive relief pursuant to Section
7 113(b) of the Clean Air Act, 42 U.S.C. § 7413(b), based on ATSC's violations of
8 Rule 1142 of the South Coast Air Quality Management District Rules as
9 incorporated into California's State Implementation Plan ("SIP").
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12 JURISDICTION, AUTHORITY, AND VENUE

13 2. This Court has jurisdiction over the subject matter of this action under
14 28 U.S.C. §§ 1331, 1345, and 1355, and under Section 113(b) of the Clean Air
15 Act, 42 U.S.C. § 7413(b).
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18 3. The United States Department of Justice has authority to bring this
19 civil enforcement action under 28 U.S.C. §§ 516 and 519, and under Section 305
20 of the Clean Air Act, 42 U.S.C. § 705.
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23 4. The alleged violations of the Clean Air Act occurred at ATSC's
24 marine loading facility in Long Beach, California. Venue for this civil action lies
25 in the Central District of California pursuant to 28 U.S.C. §§ 1391(b) and 1395,
26 and under Section 113(b) of the Clean Air Act.
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6. Defendant ATSC is a Delaware corporation with its principal place of business in Houston, Texas. ATSC operated a marine loading facility at Pier B (Berths 76, 77, and 78) in Long Beach, California. ATSC used the facility for the loading and unloading of petroleum liquids onto marine vessels.

REGULATORY BACKGROUND

7. The primary purpose of the Clean Air Act, 42 U.S.C. §§ 7401-7671, is to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population.

42 U.S.C. § 7401(b)(1). To accomplish this, Section 109 of the Clean Air Act, 42 U.S.C. § 7409, requires the Administrator of EPA (the "Administrator") to promulgate national ambient air quality standards ("NAAQS") for certain air pollutants to protect public health and welfare.

8. On February 8, 1979, the Administrator promulgated the NAAQS for

1 ozone. These standards are published at 40 C.F.R. § 50.9. Because volatile
2 organic compounds ("VOCs") react to form ozone, federal and state regulatory
3 schemes for attaining the NAAQS for ozone focus on the reduction or elimination
4 of VOCs.
5

6
7 9. Section 110 of the Clean Air Act, 42 U.S.C. § 7410, requires each
8 state to adopt and submit to the Administrator for approval a SIP that provides for
9 the attainment and maintenance of the NAAQS in each air quality control region
10 within the state. Once EPA approves the SIP, it is independently enforceable by
11 the federal government under Section 113(b) of the Clean Air Act,
12 42 U.S.C. § 7413(b).
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15
16 10. EPA has designated the South Coast Air Basin as an extreme non-
17 attainment area for ozone pollution. 40 C.F.R. § 81.305. The California agency
18 primarily responsible for the control of pollution in the South Coast Air Basin is
19 the South Coast Air Quality Management District.
20

21
22 11. The South Coast Air Quality Management District adopted Rule 1142
23 on July 19, 1991. The California Air Resources Board, the California agency
24 legally authorized to submit SIPs and SIP revisions to EPA, submitted Rule 1142
25 to EPA for approval on January 28, 1992. EPA approved Rule 1142 into the SIP
26 on December 13, 1994. See 59 Fed. Reg. 64132. The Rule became federally
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28

1 enforceable 30 days thereafter on January 12, 1995.

2
3 12. South Coast Air Quality Management District Rule 1142 applies to
4 "all loading . . . and housekeeping events where a marine tank vessel is filled with
5 an organic liquid; or where a liquid is placed into a marine tank vessels's cargo
6 tanks which had previously held organic liquid."
7

8
9 13. Rule 1142(a). Rule 1142(c)(1)(B) provides that:

10 Effective January 1, 1994 a loading . . . or housekeeping
11 of a marine tank vessel shall not be conducted while in
12 South Coast Waters, unless:
13

14 (i) The emissions of volatile organic compounds are
15 limited to 5.7 grams per cubic meter (2 lbs. per 1,000
16 barrels) of liquid loaded into a marine tank vessel; or
17

18 (ii) The emission of volatile compounds are reduced by at
19 least 95 percent by weight from uncontrolled emissions.
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21
22 14. Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the United
23 States to commence a civil action for a permanent or temporary injunction, and to
24 assess and recover a civil penalty of not more than \$25,000 per day for each
25 violation whenever a person has violated any requirement or prohibition of an
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1 applicable implementation plan. This amount was increased to \$27,500 per day
2 for violations occurring on and after January 31, 1997. See 40 C.F.R. § 19. Such
3 an action may be commenced 30 days following the date of EPA's notification
4 that such person has violated, or is in violation of, a requirement or prohibition in
5 a SIP.
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7 GENERAL ALLEGATIONS

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10 15. From February 11, 1995 and continuing through May 16, 2002,
11 ATSC operated a marine loading facility at Pier B (Berths 76, 77, and 78) in Long
12 Beach, California. The marine vessels loaded at this facility transported petroleum
13 liquids to other terminals or refineries for distribution or further processing.
14

15
16 16. ATSC's marine facility is in the South Coast Air Basin and within the
17 jurisdiction of the South Coast Air Quality Management District, and therefore is
18 subject to the requirements of Rule 1142.
19

20 17. ATSC's operations at this facility typically involved the removal of
21 petroleum liquids from marine vessels, followed by the refilling of the holding
22 tanks with other organic liquids, including refined petroleum products. As the
23 organic liquid refilled the holding tanks, the VOCs and/or diesel fuel exhaust
24 remaining in the holding tanks were displaced and vented to the atmosphere.
25
26

27 18. On September 27, 1999, EPA Region 9 issued a Notice of Violation
28

1 ("NOV") to ATSC regarding alleged violations of Rule 1142.

2
3 CLAIM FOR RELIEF

4 19. Paragraphs 1 through 18 are realleged and incorporated herein by
5 reference.

6
7 20. On at least 294 occasions between February 11, 1995 and May 16,
8 2002, ATSC violated District Rule 1142 by engaging in loading events in which it
9 failed to either verify the level of its VOC emissions, or to use control technology
10 to reduce emissions to an efficiency of 95%.

11
12 21. Pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), this Court
13 may assess a civil penalty of up to \$25,000 for each day of violation occurring
14 before January 31, 1997 (or \$27,500 per day for each day of violation occurring on
15 and after January 31, 1997 and before May 16, 2002).

16
17 22. WHEREFORE, Plaintiff, the United States of America, respectfully
18 prays that:

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20 (a) this Court enter judgment against defendant ATSC;

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22 (b) assess civil penalties of up to \$25,000 for each day of violation
23 occurring before January 31, 1997, and \$27,500 per day for each day of violation
24 occurring on and after January 31, 1997 and before May 16, 2002;

25
26 (c) issue an injunction requiring ATSC to use control technology
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1 for all events subject to the requirements of Rule 1142; and

2
3 (d) award such other relief as the Court deems just and proper.

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5 Respectfully submitted,

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